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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF COCHISE

STATE OF ARIZONA ) Case No. CR201800079  
Plaintiff, ) JUDGE CONLOGUE  
vs. ) DIVISION V  
JAMES EDWARD EARLY, II ) **OMNIBUS MOTION *IN LIMINE***  
Defendant. ) **REGARDING EVIDENCE**

The State of Arizona, through the Cochise County Attorney, Brian M. McIntyre, Cochise County Attorney, and Terisha Driggs, his Deputy, hereby moves for the Court to determine admissibility regarding items described below.

## **I. Stipulation regarding marijuana**

The State met and conferred with defense counsel on January 17, 2019. At this meeting defense counsel agreed to stipulate that the bundles found in the pickup truck located at 935 Helen Street, Bisbee, AZ on November 7, 2016 are in fact marijuana. The State would ask the Court to address this stipulation prior to the start of trial such that an appropriate jury instruction may be given. The State has prepared a signed stipulation and order but is awaiting Defense counsel's signature.

## **II. Prior convictions of George Mills (Defense witness)**

On September 14, 2009 George Mills was convicted in Cochise County case CR200900293 for a felony offense that was committed on March 26, 2009. The State would request to ask questions of this witness that would affirm his status as having

been convicted of a felony within the past ten years. These questions would be sanitized such that the nature of the crime is not revealed.

Additionally, the State would request to ask general questions regarding the witnesses' prior convictions that are older than ten years. These questions would be limited to prior convictions involving marijuana. During an interview of the witness on January 17, 2019, the witness admitted to his prior criminal involvement with marijuana. The witness was able to attest to and define common language used by those associated with illegal marijuana use including the term "bowl," "fat bowl," and "doing a run." These are terms referenced in the Defendant's text messages. This would not be prejudicial to the Defendant but would serve to assist the jury in assessing the weight of this witness's testimony.

### **III. Requested exclusion of testimony regarding Djin Farrar**

In Defense disclosure provided on January 11, 2019 the Defense listed George Mills as a witness that would testify about “Djin’s behavior regarding marijuana trafficking.”

During the interview the witness stated that Djin had approached him to weld compartments onto a vehicle in order to transport marijuana. The witness did not know or recall which vehicle Djin intended for the compartments to be welded on to. During the interview the witness also shared his knowledge of Djin having run marijuana loads in the past. None of the Defense witnesses interviewed by the State are able to testify that the Defendant lent his truck to Djin on November 7, 2016. Unless the Defendant testifies to this fact any information related to Djin should be precluded as irrelevant and it would only serve to confuse the matter at hand. Djin Farrar is deceased and is not on trial and not able to defend slanderous claims of his involvement.

Wherefore, the State requests testimony regarding Djinn Farrar as mentioned above should be precluded under Arizona Rules of Evidence Rule 401 and 403 and pursuant to case law in State v. Escalante-Orozco, 241 Ariz. 254, 386 P.3d 798 (2017), State v. Foshay, 239 Ariz. 271, 370 P.3d 618 (Ariz. App. 2016), and State v. Machado, 226

1 Ariz. 281, fn.2 (2011) all where the Court has held that speculative third-party evidence  
2 is not admissible.

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4 RESPECTFULLY SUBMITTED this 18<sup>th</sup> day of January 2019.

5 COCHISE COUNTY ATTORNEY

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7 By: Terisha Driggs  
TERISHA DRIGGS  
8 Deputy County Attorney

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10 Copy of the foregoing mailed/delivered/faxed this 18<sup>th</sup> day of January 2019, to:

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12 The Honorable James Conlogue  
13 Judge of the Superior Court  
Division V  
14 Bisbee, Arizona 85603  
Via Courthouse Distribution Box

15 Rafael Malanga, Esq.  
16 Attorney for Defendant  
Via Email